

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, California 95814



Date: November 1, 1999

TO: ALL PROVIDER AND ADVOCATE ORGANIZATIONS FOR  
RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

FROM: MARTHA LOPEZ, Deputy Director  
Community Care Licensing Division  
California Department of Social Services

SUBJECT: IMPORTANT NEW BACKGROUND CHECK LAW CHANGES

This letter provides important information about two new laws that affect the background check requirements for all staff, volunteers, and employees of Residential Care Facilities for the Elderly (RCFE).

Assembly Bill 1659, Chapter 881, Statutes of 1999; and, Senate Bill 286, Chapter 359, Statutes of 1999 make the following changes to the background check requirements in Health and Safety Code Section 1569.17. These changes became effective October 10, 1999.

- I. Fingerprints are now required for any staff person, volunteer, or employee **who has any client contact**. The phrase "Frequent and routine" contact has been deleted from the statute. (See attached background check processing costs)
- II. Only the following individuals are not required to obtain a background check:
  - Residents of unlicensed independent senior housing facilities that are located in buildings on the same property as a licensed Residential Care Facility for the Elderly.
  - A spouse, significant other, relative, or a close friend of a resident, as long as the person is visiting the resident or providing direct care and supervision to that resident only.
  - Volunteers who meet all of the following conditions:
    - ✓ The volunteer is at the facility only during normal waking hours.
    - ✓ The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or a criminal record exemption.
    - ✓ The volunteer spends no more than 16 hours per week at the facility.

- ✓ The volunteer does not provide clients with any assistance in dressing, grooming, bathing, or personal hygiene.
- ✓ The volunteer is never left alone with clients in care.
- A third-party contractor retained by the facility if the contractor is never left alone with residents in care. This includes repairpersons.
- A third-party contractor or other business professional retained by a client and at the facility at the request or by permission of that client. This includes people such as an insurance agent, tax preparers, or financial planners. However, these individuals shall not be left alone with other clients.
- Licensed or certified medical professionals. These individuals are not exempt however, if they are a community care licensee, or an employee of the facility.
- Employees of licensed home health agencies and members of licensed hospice interdisciplinary teams who have contact with a resident at the request of the resident or the resident's legal decisionmaker. However, these individuals are not exempt from the background check requirement if a person is a community care licensee, or an employee of the facility.
- Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are counseling an individual resident at the request of, or with permission of, the resident.

**III.** Nothing in the Health and Safety Code prohibits a licensee from requiring any background check exempt individual from obtaining a background check, provided the individual has contact with the resident.

The Department will begin enforcing these changes effective October 10, 1999. The Residential Care Facilities for the Elderly regulations are currently being revised to reflect these new law changes. In the meantime, attached is a flyer your staff can duplicate and distribute to providers informing them of the new law changes. If you have any questions you may call Vincent Herrera, Central Operations Branch, Policy Analyst at (916) 322-5419.

Thank you for your cooperation in implementing these two new state laws that directly affect you and your facility operations.

Attachment

## **COSTS FOR BACKGROUND CHECK PROCESSING**

The cost of the California DOJ criminal record check is ..... **\$42.00. \***

The cost of the FBI criminal record check is ..... **\$24.00.**

The vendor fee for Livescan fingerprint processing in  
licensing district offices will be ..... **\$14.00\*\***

Child Abuse Central Index (CACI) if required..... **\$15.00**

**TOTAL                    \$95.00**

\*    The DOJ cost to process BID 7B fingerprint cards is \$52.00.

\*\* The Live Scan processing fee by agencies other than Community Care  
Licensing sponsored locations is determined by that agency and the costs will  
vary.

October 11, 1999



## **IMPORTANT!**

**New Background Check Laws for Residential Care Facilities for the Elderly.** The Governor recently signed into law Assembly Bill 1659 and Senate Bill 286. These new laws made the following changes effective October 10, 1999,

- I. Fingerprints are now required for any staff person, volunteer, or employee **who has any client contact**.
- II. Only the following individuals are not required to obtain a background check:
  - Residents of unlicensed independent senior housing facilities that are located in buildings on the same property as a Residential Care Facility for the Elderly.
  - A spouse, significant other, relative, or a close friend of a resident, as long as the person is visiting the resident or providing direct care and supervision to that resident only.
  - Volunteers who meet all of the following conditions:
    - ✓ The volunteer is at the facility only during normal waking hours.
    - ✓ The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or a criminal record exemption.
    - ✓ The volunteer spends no more than 16 hours per week at the facility.
    - ✓ The volunteer does not provide clients with any assistance in dressing, grooming, bathing, or personal hygiene.
    - ✓ The volunteer is never left alone with clients in care.
  - A third-party contractor retained by the facility if the contractor is never left alone with residents in care. This includes repairpersons.
  - A third-party contractor or other business professional retained by a client and at the facility at the request or by permission of that client. This includes people such as an insurance agent, tax preparers, or financial planners. However, these individuals shall not be left alone with other clients.
  - Licensed or certified medical professionals that are not a community care licensee, or an employee of the facility.
  - Employees of licensed home health agencies and members of licensed hospice interdisciplinary teams who have contact with a resident at the request of the resident or the resident's legal decision maker. However, these individuals are not exempt from the background check requirement if a person is a community care licensee, or an employee of the facility.
  - Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are counseling an individual resident at the request of, or with permission of, the resident.
- III. Nothing in the Health and Safety Code prevents a licensee from requiring any background check exempt individual from obtaining a background check, provided the individual has contact with the resident.